

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TAVEON KNOTT, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

KATHLEEN KNOTT,

Respondent-Appellant.

UNPUBLISHED

April 11, 2006

No. 265137

Genesee Circuit Court

Family Division

LC No. 98-109978-NA

Before: Smolenski, P.J., and Owens and Donofrio, JJ.

MEMORANDUM.

Respondent appeals from an order terminating her parental rights to the minor child pursuant to MCL 712A.19b(3)(b)(ii), (g), and (j).¹ We affirm.

The sibling that was injured in this case was the child's older sister, Tamara, who was an adult and did not live in the home. She came over to the home at the request of another sibling and sought to help the mother in the mother's altercation with the father. There was no evidence that the mother caused, or was in a position to prevent, the physical assault on Tamara. Hence, MCL 712A.19b(3)(b)(ii) did not apply. However, the trial court did not clearly err in finding that MCL 712A.19b(3)(g) and (j) were established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Child Protective Services received referrals regarding the family in 1988, 1993, 1998, 1999, 2002, and 2004 for physical neglect and abuse. The children were removed from the home on previous occasions. Although each of these cases was eventually closed after the parents received services, it was clear from the record that the parents did not benefit from the services. Both parents testified about the severe domestic abuse that existed between them throughout the years. One incident permanently disabled the mother when both of her ankles were broken. The mother was referred for domestic violence classes in 1998, 1999, and 2004 and had to get four PPOs on the father. On February 14, 2004, the father stabbed the mother and Tamara and then hit Tamara with a

¹ Although reference was made to other subsections in the trial court's findings, these were inapplicable to the mother in her joint trial with the child's father.

baseball bat, breaking her arm. Seven children were home when the incident occurred. The mother admitted that she went to the father's sentencing hearing and lied about some of the things that happened because she did not want him to go to prison. Further, the mother admitted that she did not think about the effect that repeated exposure to domestic violence would have on her children.

Although the father was incarcerated at the time of trial, his earliest release date was in 2007. The parties' history supported a presumption that the mother would resume a relationship with the father after his release. Under those circumstances, the trial court properly found that the child would likely be harmed if returned to the mother's care and that, without regard to intent, the mother failed to provide the child with proper care or custody.

Having found that there was a statutory basis for termination, the trial court was required to terminate respondent's parental rights unless there was clear evidence on the whole record that termination was not in the child's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The record evidence does not show that termination of respondent mother's parental rights was clearly not in the child's best interests. He is entitled to a safe and stable home environment free from domestic violence.

Affirmed.

/s/ Michael R. Smolenski

/s/ Donald S. Owens

/s/ Pat M. Donofrio